



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/823,984

04/13/2004

Matthew Purkeypile

020699-100500US

5324

37490

7590

12/11/2006

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

EXAMINER

MEHRMANESH, ELMIRA

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/823,984	Applicant(s) PURKEYPILE ET AL.	
	Examiner Elmira Mehrmanesh	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The application of Purkeypile et al., for a "Modular imaging of computer software for system install and restore" filed April 13, 2004, has been examined.

Claims 1-16 are presented for examination.

Information disclosed and listed on PTO 1449 has been considered.

Claims 1-16 are rejected under 35 USC § 102.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12 and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 12 and 13, the "machine-readable medium" needs to be changed to a computer readable medium. Furthermore the above claims are not limited to tangible embodiments. In view of Applicant's disclosure, specification [0187], page 49, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., specification [00187], page 49, semiconductor system, apparatus, system, device, or computer memory) and intangible embodiments (e.g., specification [0187], page 49, propagation medium, an electronic, magnetic, optical, electromagnetic, infrared, which implies the use of intangible media such as signals,

Art Unit: 2113

carrier waves, transmissions). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Jenevein et al. (U.S. Patent No. 6,615,365).

As per claim 1, Jenevein discloses a method for configuring a target computer system (Fig. 3) the method comprising

creating an image of a first plurality of software components (Fig. 7, element 730)

storing the image onto the target computer system (Fig. 7, element 734)

determining additional software components to be stored onto the target computer system (Fig. 7)

storing the additional software components by using a predefined module (Fig. 7, element 734).

As per claim 2, Jenevein discloses a module includes at least a portion of setup information provided by a manufacturer of a first software component associated with a first module (Fig. 4, element 420).

As per claim 3, Jenevein discloses a module includes at least a portion of a compressed software component (Fig. 7, element 714).

As per claim 4, Jenevein discloses a module includes at least a portion of a PAC file (Fig. 7).

As per claim 5, Jenevein discloses the image includes a foundation image (Fig. 4, element 420).

As per claim 6, Jenevein discloses the image includes a recovery image (col. 12, lines 11-13).

As per claim 7, Jenevein discloses storing a plurality of data files (Fig. 7) wherein a data file includes system specific configuration information (col. 8, lines 55-59).

As per claim 8, Jenevein discloses the data files are stored in a common directory (Fig. 7, element 712).

As per claim 9, Jenevein discloses a code field is used to indicate what images can be loaded onto a particular system (col. 15, lines 56-67 through col. 16, lines 1-5).

As per claim 10, Jenevein discloses creating an initialization file (col. 13, lines 17-20)

copying a recovery image to a temporary location (col. 12, lines 9-18 and col. 16, lines 34-43)

restoring the recovery image (Fig. 6, element 624) to a first partition from a temporary location (Fig. 7, element 734)

copying the recovery image from the first partition to a temporary location (Fig. 7, elements 712, 716)

copying a foundation image to the first partition via a network (col. 16, lines 34-43)

restoring the foundation image to a second partition (Fig. 7, element 728)

copying permanent modules to the first partition; copying a data file to the first partition (Fig. 7, elements 712, 734)

copying temporary modules to the first partition (Fig. 7, elements 712, 734)

copying a module including at least a portion of a software component to the first partition (Fig. 7, element 734)

executing one or more modules; and deleting modules from the first partition (col. 14, lines 34-38).

As per claim 11, Jenevein discloses storing a process for recovering an initial installation (col. 16, lines 44-47).

As per claim 12, Jenevein discloses an apparatus for configuring a target computer system, the apparatus comprising a machine-readable medium (col. 23, lines 22-25) including one or more instructions (col. 23, lines 25-28) for creating an image of a first plurality of software components (Fig. 7, element 730)

one or more instructions (col. 23, lines 25-28) for storing the image onto the target computer system (Fig. 7, element 734)

one or more instructions (col. 23, lines 25-28) for determining additional software components to be stored onto the target computer system (Fig. 7)

and one or more instructions (col. 23, lines 25-28) for storing the additional software components by using a predefined module (Fig. 7, element 734).

As per claim 13, Jenevein discloses a machine-readable medium (col. 23, lines 22-25) including one or more instructions for creating an image of a first plurality of software components (Fig. 7, element 730)

one or more instructions (col. 23, lines 25-28) for storing the image onto the target computer system (Fig. 7, element 734)

one or more instructions (col. 23, lines 25-28) for determining additional software components to be stored onto the target computer system (Fig. 7)

and one or more instructions (col. 23, lines 25-28) for storing the additional software components by using a predefined module (Fig. 7, element 734).

As per claim 14, Jenevein discloses an apparatus for configuring a target computer system, the apparatus comprising means for creating an image of a first plurality of software components (Fig. 7, element 730) and (Fig. 6, element 618)

means for storing the image onto the target computer system (Fig. 7, element 734)

means for determining additional software components to be stored onto the target computer system (Fig. 7)

and means for storing the additional software components by using a predefined module (Fig. 7, element 734).

As per claim 15, Jenevein discloses a method for recovering software components (Fig. 7), the method comprising installing at least a portion of a foundation image (Fig. 7)

selectively (col. 13, lines 21-23) allowing a user to install a software component from a third-party installation medium (col. 9, lines 31-40)

and selectively (col. 13, lines 21-23) allowing a user to install a software component from a secondary file (col. 9, lines 31-40).

As per claim 16, Jenevein discloses the secondary file includes a PAC file (Fig. 7).

Related Prior Art

The following prior art is considered to be pertinent to applicant's invention, but nor relied upon for claim analysis conducted above.

Cabrera et al. (U.S. Patent No. 6,535,998), "System recovery by restoring hardware state on non-identical systems".

Barton et al. (U.S. Patent No. 6,490,722), "Software installation and recovery system".

McBride et al. (U.S. Patent No. 6,748,553), "Method and apparatus for default factory image restoration of a system".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmira Mehrmanesh whose telephone number is (571) 272-5531. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2113

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert M. Benshoof
PATENT EXAMINER
EBC CENTER 2100